

Fiscal Note

Fiscal Services Division



SF 2358 – Government Accountability and Employment Practices (LSB 6216SV)
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Fiscal Note Version – New

Description

Division I of this Bill concerns personnel settlement agreements and requires personnel settlement agreements between the State and an employee of the State to be reviewed and approved by the Attorney General and the applicable employer. The agreements are not to contain any confidentiality or nondisclosure provisions and any such provisions are void and unenforceable. This Bill provides for the posting of the personnel settlement agreements on an Internet site. This Division is effective on enactment.

Division II of this Bill requires the Auditor of State to conduct an examination of the personnel settlement agreements made with terminated State employees since January 2011. The costs associated with the examination are to be charged to the Department of Administrative Services (DAS). The Auditor is to submit a report on the results of the examination to the General Assembly by December 1, 2014.

Division III of this Bill requires a State agency to perform a cost comparison analysis prior to entering into a service contract as defined in Iowa Code section [8F.2](#). The cost comparison requires a determination if a service contract will result in lower contract costs than having the services provided by State government. The service contract cannot be entered if the State could provide the service for less. If it is determined that the proposed service contract will result in reduced public employment, the State agency is then required to conduct a more in-depth economic and environmental impact analysis relating to the loss of public employment. The Division also requires employee compensation of a selected service contractor to be comparable to the compensation of public employees performing similar work or the average private sector wage, in this State, for similar work, whichever is less.

Division IV of this Bill concerns State employment hiring procedures and establishes procedures for designating an individual as ineligible to apply for State employment and specifies the right of the individual to appeal the determination. The Division also requires the establishment of procedures providing for the hiring of employees. The procedures are to provide for public announcement and advertisement of vacancies.

Division V of this Bill concerns executive branch bonuses and requires that information concerning bonus payments to an executive branch employee of more than \$200 to be posted on an Internet site.

Division VI of this Bill concerns whistleblower protection and adds the disclosure of specified information by a State employee to any appropriate person, and not just to a public official or law enforcement agency, to the list of protected disclosures. The Division further adds actual damages to the list of awards that can be made in an action seeking relief for a violation of disclosure protection provisions. The Division applies to the State and political subdivisions of the State.

Division VII of this Bill establishes a Vertical Infrastructure Advisory Committee consisting of seven members, appointed by the Governor and approved by the Senate. The Committee will oversee the inventory and assessment of State-owned vertical infrastructure. The Committee will develop and recommend methods for identifying, evaluating, and prioritizing infrastructure and maintenance needs, and annually submit a five-year plan of recommendations to the Governor and the General Assembly no later than December 15 of each year. The Committee members can receive reimbursement for actual expenses as well as a per diem of \$50.

Background

- The current procedures for processing claims, reporting the payment of claims resolved with a settlement agreement, and the duties of the Attorney General, are specified in Iowa Code chapter [25](#).
- Under current law, a service contract only exists when a contract between an agency and recipient exceeds \$500,000. Iowa Code section [8F.2](#) also stipulates various types of contracts (i.e., construction contracts) that are excluded from the definition of service contract.
- Services contracts covered under current law have averaged in total, on an annual basis, \$818.4 million for FY 2008 through FY 2013. The amount of each service contract related to employee compensation is not known.

Fiscal Impact

[Senate File 2358](#) is estimated to have the following fiscal impacts:

Division I – Personnel Settlement Agreements

No significant fiscal impact.

Division II – Personnel Settlement Agreements Examination

The fiscal impact cannot be determined. It has not yet been determined how all settlement agreements entered into by the State, including the Judicial, Legislative, and Executive Branches (including the Board of Regents), will be located, and the number of agreements.

Division III – Service Contracts

Assumptions

- The number of service contracts exceeding \$500,000 to be annually processed is estimated at 69.
- The required cost comparison analysis of service contracts will be completed by a Senior State Fiscal and Policy Analyst at a salary and benefit range of \$74,800 to \$133,300.
- Support costs and office expense are estimated at 20.0% of salaries.
- The amount of time required to complete a cost comparison analysis of a service contract is not known. For estimating purposes, it is assumed the initial cost comparison analysis for each service contract will take between three and four weeks on average to complete.
- The number of economic and environmental analyses that would be conducted due to a finding that a service contract will result in the reduction of State employees cannot be determined; however, it is expected to be a relatively small number in relation to the total number of service contracts entered into annually.
- Indirect costs relating to increased prices quoted by vendors due to potential delays in awarding contract are not included.
- Compensation includes both wages and benefits.

Fiscal Impact – Division III

The estimated cost to Executive Branch agencies to complete the cost comparison analysis on service contracts is estimated to range from \$342,000 to \$807,000 per year. The costs will impact multiple State funding sources.

SF 2358 - Division III		
	Range	
	Min	Max
Salaries and Benefits		
State Fiscal and Policy Analyst	\$ 74,838	\$133,282
FTE Positions	4.0	5.3
Total Salaries & Benefits	\$299,352	\$706,395
Total Support Costs	42,456	100,816
TOTAL	<u>\$341,808</u>	<u>\$807,211</u>

The estimated cost to complete an economic and environmental analysis, as a result of a finding that a service contract could result in the reduction of State employees, is estimated to range between \$4,800 and \$10,500.

The Legislative Services Agency (LSA) does not have the detailed data that would be needed to estimate the cost of requiring employee compensation of a selected service contractor to be comparable to the compensation of public employees performing similar work or the average private sector wage, in this State, for similar work, whichever is less. Studies from other states and estimates by State agencies have indicated the required compensation component of the total contract will range from no impact to an increase in the wage and benefit component cost of the contract by 20.0%. The amount of each service contract related to employee compensation is not known.

Division IV – State Employment Hiring Procedures

The fiscal impact cannot be determined. It is not possible to know the number of employees that will be designated as ineligible to apply for State employment or the number of employees that will appeal the designation. The public announcement and advertisement of vacancies will not have a significant fiscal impact.

Division V – State Employee Bonuses

No significant fiscal impact.

Division VI – Whistleblower Protection

The fiscal impact cannot be determined. The Office of the Attorney General has indicated that this Bill will increase lawsuits substantially because it expands the list of persons that an employee can make protected disclosures to and adds actual damages to the list of relief available to an aggrieved employee, which would include emotional distress. Since it is not possible to know what, if any, the increase in the number of cases defended by the Attorney General will be, or the amount of awards that may be made, it is not possible to estimate the needed increase, if any, of resources for the Attorney General, or the amount of awards made

or the source of the funds needed to make the awards. For the same reasons, it is not possible to estimate the cost, if any, to political subdivisions of the State.

Division VII – Vertical Infrastructure Advisory Committee

Assumptions

- Assumes the Committee will meet once per month.
- Estimates the average travel cost per Committee member at \$39 per meeting and assumes average roundtrip travel distance of 100 miles per member times the current mileage reimbursement rate of \$0.39 per mile.
- Assumes each Committee member will receive \$50 per diem.
- Assumes the cost to staff and run the meetings will be covered with existing resources of the Department of Management and the Department of Administrative Services.

Fiscal Impact – Division VII

The cost to operate the Vertical Infrastructure Advisory Committee is estimated to be \$7,500 per year.

Sources

Board of Regents
Department of Administrative Services
Department of Corrections
Department of Education
Department of Human Services
Department of Inspections and Appeals
Department of Management
Department of Natural Resources
Department of Public Health
Department of Public Safety
Department of Revenue
Department of Transportation
Department of Workforce Development
Iowa Lottery Authority
Iowa Public Information Board
Iowa State Association of Counties
Iowa State Association of School Boards
Iowa Veterans Home
Office of the Attorney General
Office of the Auditor of State
Office of the Citizens' Aide/Ombudsman
Public Employment Relations Board
University of Missouri-Kansas City

/s/ Holly M. Lyons

April 24, 2014

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
